



Capacity Building  
CENTER FOR TRIBES

# Pathways to Tribal Title IV-E

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TRIBAL TITLE IV-E OPTIONS



## Child Welfare Capacity Building Collaborative

The Collaborative is a partnership among three centers—the Center for Tribes, Center for States, and Center for Courts. This new structure is designed to help child welfare agencies and courts in states, tribes, and territories to build capacity and improve practice. The Collaborative, consisting of three Centers, delivers services that are innovative, outcome-driven, and informed by the best available data and evidence. Each Center provides three general types of services:

- Universal Services
- Constituency Services
- Tailored Services

See page 12 of this document for additional information about the Collaborative.



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Please note: This document does not cover all Title IV-E and related requirements or policy answers and represents a simplified account of the actual requirements. Further, future regulations or policy may cause the information in this document to become outdated. It is important for American Indian and Alaska Native Nations to assure that it meets all of the required provisions as detailed in the Title IV-E statute, regulations and official Children's Bureau policy.

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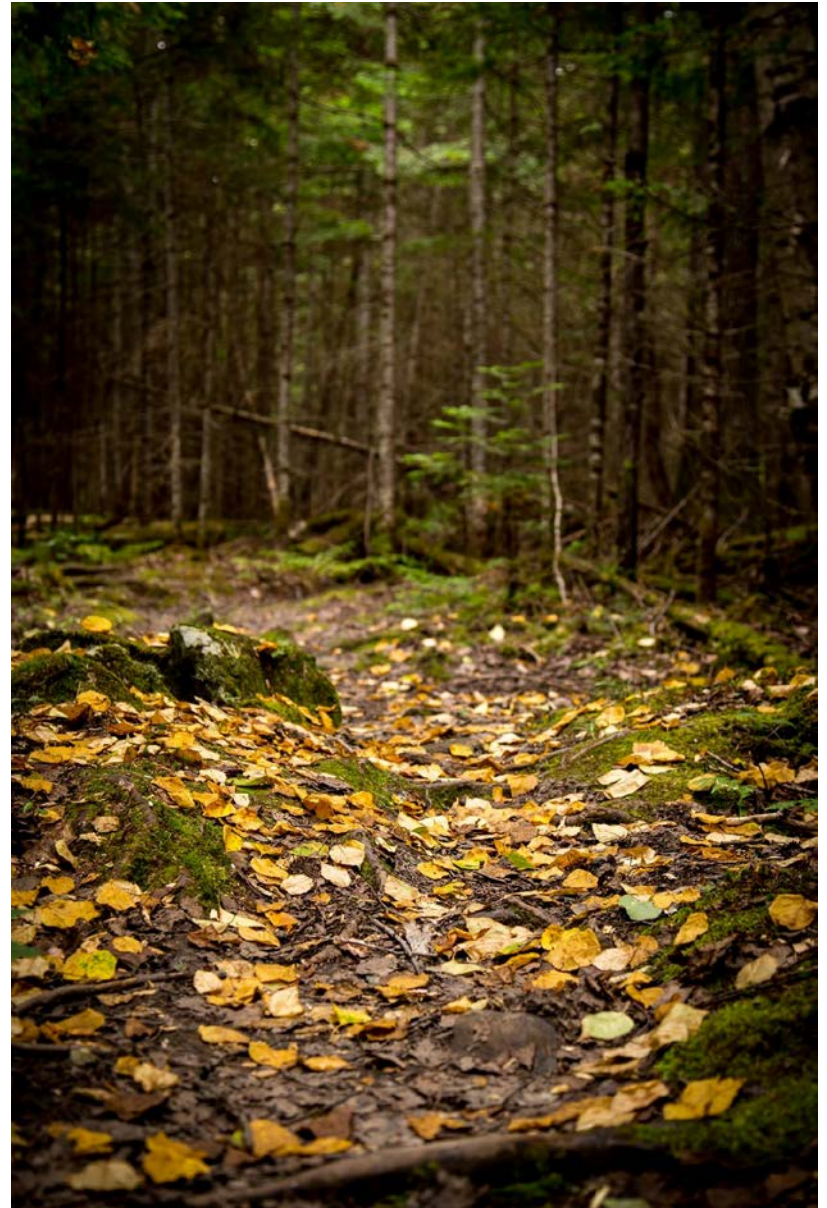
## About This Document

The Children's Bureau provides matching funds to tribal organizations, states, and territories to help them operate every aspect of their child welfare systems—from the prevention of child abuse and neglect to the support of permanent placements through adoption and subsidized guardianship. Title IV-E of the Social Security Act provides funds for tribes and states to provide foster care, transitional independent living programs for children, guardianship assistance, and adoption assistance for children with special needs.

Pathways to Tribal Title IV-E is provided for informational purposes and to assist tribes in determining if applying for direct Title IV-E funding or pursuing a Tribal-State Agreement might be an option for their tribe. Of course, all Tribal Nations are unique and possess their own customs, traditions and the way they work on a day-to-day basis. It is important for tribes to understand Title IV-E requirements when considering direct Title IV-E funding or a Tribal-State Agreement which are detailed in the federal Title IV-E statute, regulations and official Children's Bureau policy.

In this document you will find the following information:

- [Authority for Tribal/State Agreements and Direct Funding](#)
- [Direct Title IV-E Program](#)
- [Overview and Requirements for Accessing Title IV-E Funding](#)
- [Scope of the Title IV-E Program](#)
- [Resources to Assist Tribes](#)



## Authority for Tribal/State Agreements and Direct Funding

In 1978, Congress passed the Indian Child Welfare Act (Public Law 95-608, November 8, 1978):

- to protect the best interests of Indian children,
- to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families, and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture; and
- to provide assistance to Indian tribes in the operation of children and family service programs (25 United States Code Section 1902).

The Indian Child Welfare Act authorizes States and Indian Tribes to enter into agreements with each other regarding care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

Title IV-E of the Social Security Act also authorizes Tribes and States to enter into Title IV-E Agreements for funding under Title IV-E for the following:

- Foster Care Assistance
- Kinship Guardianship Assistance
- Adoption Assistance
- John H. Chafee Foster Care Independence Program
- Administrative reimbursement associated with staffing and training of staff and foster and adoptive parents

The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires states to negotiate in good faith with any Indian Tribe, tribal organization or tribal consortium in the State that requests development of an agreement with the State for the tribe to administer all or part of the Title IV-E program on behalf of Indian children who are under the authority of the Tribe.

Tribal-State Agreements vary by tribe and state and generally provide for the pass through of Title IV-E funding for foster care, administration and training. Agreements may also provide Title IV-E and other funding for the provision of all child welfare services. The first type of agreement allows Tribes to access Title IV-E funding for children under the placement and responsibility of the Tribal Court:

- Maintenance payments for Title IV-E children removed from their homes and placed in a licensed family foster home or a licensed child care institution;
- Kinship Guardianship Assistance payments for children who meet the eligibility requirements for the program;
- Adoption Assistance payments for children placed in an approved adoptive home;
- Administrative reimbursement for allowable activities associated with staffing and training of staff and foster and adoptive parents;
- Training of family foster homes and adoptive families.

The other type of agreement allows for everything listed above and additional funding for the Tribe to assume the full provision of child protection services from intake of reports, in-home services, placement services, services to achieve a child's permanent plan and licensing of placement resources. When a full Tribal-State Agreement is finalized, the state no longer provides these services directly, but provides oversight of federal Title IV-E requirements and technical assistance.

***Important information to keep in mind...***

A Tribal-State Agreement can be a potential good choice for tribes:

- Who have a child welfare program and take placement care responsibility of Tribal children
- Who have a Tribal Court in place that can/will handle child welfare issues
- Who are interested in developing a direct Title IV-E program but need time to develop Tribal infrastructure
- Who are interested in recruiting, training and licensing foster homes

**Tribal Nations who are interested in entering into a Tribal-State Agreement** may contact the ACF Program Specialist for your region. Contact information for ACF regional offices can be found at: <https://www.acf.hhs.gov/programs/oro>.

## Visit the Tribal Child Welfare Information Exchange

Located at [www.tribalinformationexchange.org](http://www.tribalinformationexchange.org), the Tribal Information Exchange (TIE) is an information and resource sharing service focused exclusively on Tribal child welfare.

The Capacity Building Center for Tribes (Center for Tribes), with guidance from national native child welfare experts, values providing culturally responsive materials and tools for growth to tribal social service professionals and communities. To better support this commitment and value, the Tribal Information Exchange was created as a complement to our Capacity Building Collaborative website. The TIE provides easy to access content that focuses on tribal topics, a space for tribes to share and learn from one another, and hundreds of tribal resources from the Center for Tribes and beyond.





## Direct Title IV-E Program

President Bush signed the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P. L. 110-351) into law on October 7, 2008. The Act provides federally-recognized Indian Tribes, Indian Tribal Organizations and Consortia (Indian Tribes) with the option to submit a plan to the Administration for Children and Families to apply for Title IV-E funding directly from the federal government rather than developing Tribal-State Agreements to operate Title IV-E foster care, kinship guardianship, and adoption assistance programs.

### ***Important information to keep in mind...***

- Requires local matching funds
- Requires the Tribe to be operating a Title IV-B (Subpart 1 or 2) Program (Note: the requirement is for subpart 1 only. That will allow for any tribe interested in IV-E to develop and submit a plan. IV-B2 has a minimum grant threshold that automatically eliminates some tribes.)
- Title IV-B Subparts 1 or 2 are Children's Bureau programs which allow Indian tribes access to direct funding toward services to:
  - ◆ prevent the neglect, abuse or exploitation of children;
  - ◆ support at-risk families through services which allow children, where appropriate, to remain with

their families or return to their families in a timely manner

- ♦ promote the safety, permanence and well-being of children in foster care and adoptive families; and
- ♦ provide training, professional development and support to ensure a well-qualified workforce.
- Tribes that elect to operate a Title IV-E program must submit an approvable Title IV-E plan. The Title IV-E plan is developed by using the Title IV-E pre-print (linked below) as a guide.
- Using the Title IV-E pre-print, assess:
  - ♦ What is in place now at our Tribe/agency?
  - ♦ What do we need to add or revise to ensure we meet the requirements found in the pre-print?
  - ♦ Tribal programs, policies, procedures, code, judicial processes, and financial systems to see how they align with Title IV-E requirements.

The Title IV-E pre-print is located on the Children's Bureau website at: [www.acf.hhs.gov/cb/resource/pi1507](http://www.acf.hhs.gov/cb/resource/pi1507).

**Tribal Nations interested in learning more about the Direct Title IV-E Program** may contact the ACF Program Specialist for our region. Contact information for ACF regional offices can be found at: [www.acf.hhs.gov/programs/oro](http://www.acf.hhs.gov/programs/oro).

## The Children's Bureau Website

The Children's Bureau (CB) partners with tribal, state, federal and local agencies to improve the overall health and well-being of our nation's children and families. The CB website located at [www.acf.hhs.gov/cb](http://www.acf.hhs.gov/cb) provides an enormous amount of information for tribes and states to utilize in accessing Title IV-E. Examples of information found on the CB website:

### Child Welfare Policy Manual

Located at:

[www.acf.hhs.gov/cwpm/programs/cb/laws\\_policies/laws/cwpm/index.jsp](http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/index.jsp)

### Title IV-E Legislation/Policy

Located at:

[www.acf.hhs.gov/programs/cb/resource/title-iv-e-legislation-policy](http://www.acf.hhs.gov/programs/cb/resource/title-iv-e-legislation-policy)

### Preventing Sex Trafficking and Strengthening Families Act

Located at:

[www.acf.hhs.gov/cb/resource/im1403](http://www.acf.hhs.gov/cb/resource/im1403)

### Title IV-E Plan Pre-Print

Located at:

[www.acf.hhs.gov/cb/resource/pi1507](http://www.acf.hhs.gov/cb/resource/pi1507)

### Tribal and State Grant Programs

Located at: [www.acf.hhs.gov/cb/grants](http://www.acf.hhs.gov/cb/grants)



## Overview of Title IV-E

The following guidelines are based on Federal law, regulation and policy that both Tribes and States must adhere to in order to access Title IV-E funding.

If eligible, funds are available under Title IV-E for the following:

- Foster Care Assistance
- Adoption Assistance
- Kinship Guardianship Assistance
- John H. Chafee Foster Care Independence Program

## Requirements for Accessing Federal Title IV-E Funding

The main requirement related to tribes accessing Title IV-E funding is based on the eligibility of the children placed in a licensed or approved foster home on whose behalf the foster care and adoption maintenance payments are made.

The case record of the child must contain the following documentation to verify the child's eligibility:

- evidence of removal as a result of judicial determinations of contrary to the welfare and reasonable efforts or via a voluntary placement agreement (See next page for further definitions.)
- responsibility for placement and care vested with the Tribal agency

- eligibility for AFDC under the State plan as it was in effect on July 16, 1996
- placement in a licensed or approved foster family home or child care institution with verification that safety requirements have been met
- permanency hearings have been conducted as required in the Title IV-E regulations.

The federal Title IV-E requirements are discussed in more detail below.





### Contrary to the Welfare

A child's removal from the home must be the result of a judicial determination that continuation in, or returning to, the home would be contrary to the child's welfare, or that placement in foster care would be in the best interest of the child (unless removal is pursuant to a voluntary placement agreement). The contrary to the welfare finding must be made in the first court order that sanctions the child's removal from home. If not, the child is ineligible for foster care maintenance payments for the duration of that stay in foster care.

Acceptable documentation is a court order containing a judicial determination regarding contrary to the welfare or a transcript of the court proceedings reflecting this determination.

### Reasonable Efforts

The State or Tribal agency must obtain a judicial determination that it has made reasonable efforts to (1) maintain the family unit and prevent the unnecessary removal of a child from home, as long as the child's safety is ensured, and (2) make and finalize a permanency plan in a timely manner. Acceptable documentation is a court order containing a judicial determination documenting the reasonable efforts that were made by the State or Tribal agency or a transcript of the court proceedings reflecting this determination. When a child is removed from home, the judicial determination as to whether reasonable efforts were made, or were not required to prevent the removal, must be

made no later than 60 days from the date the child is removed from the home.

### Voluntary Placements

A child who is removed from home under a voluntary placement agreement that is signed by the parent(s) and Tribal agency authorities. In order to remain eligible for foster care maintenance payments a judicial determination indicating that continued voluntary placement is in the best interests of the child must be made within 180 days from the date of the voluntary placement agreement. The voluntary placement agreement must be signed by the parent(s) and Tribal agency authorities.

### Responsibility for Placement and Care Vested With the Tribal Agency

The Tribal agency must have responsibility for placement and care of the child as ordered by the court in the initial judicial determination related to the child's removal from the home.

### AFDC Eligibility (as of July 16, 1996)

Depending on the option chosen by a Tribe, Title IV-E eligibility determinations are completed by the State via documentation from the Tribe or determination is made by the Tribe to show the child was financially needy and deprived of parental support at the time of the child's removal from home, using criteria in effect in the State on July 16, 1996, Title IV-A State plan. Examples of deprivation are *death of a parent*, *absence of a parent*, *mental or physical incapacity of a parent to the*

*extent that the parent cannot support the needs of the child, or the unemployment of the principal wage earner. What is considered deprivation is state specific and one needs to see the state's AFDC plan for the details.*

### **Placement in a Licensed Family Foster Home or a Child Care Institution**

The child must be placed in a facility that meets the standards for full licensure or approval that are established by the Tribe. An eligible facility may be a family foster home, group home, private child care institution, or public child care institution which accommodates 25 or fewer children. Children placed in detention facilities, forestry camps, training schools, or other facilities operated primarily for the detention of children determined to be delinquent are not eligible for Title IV-E foster care maintenance payments. The documentation of full licensure can be satisfied by the certificate of licensure/approval or a letter of approval. The license must show that the foster family home or child care institution is licensed for the duration of the child's placement.

### **Safety Requirements for Children Placed in Foster Care**

The Tribe must provide documentation that criminal records checks and child abuse and neglect registry checks have been conducted with respect to prospective foster, guardian, and adoptive parents. Acceptable documentation to satisfy this eligibility requirement are evidence that a criminal records check was completed satisfactorily such as copies of the results of the criminal records check and a child abuse and

neglect registry check. Tribes or states may require checks of other registries such as a sexual offenders' registry. The Social Security Act requires CRC and CAN checks where registries exist.

### **Permanency Hearings**

A judicial determination regarding reasonable efforts to finalize the permanency plan must be made within 12 months of the date on which the child is considered to have entered foster care and at least once every 12 months thereafter while the child is in foster care. If a judicial determination is not made within this timeframe, the child is ineligible at the end of the 12th month and remains ineligible until the judicial determinations is made. Permanency hearings are not required for voluntary placements.

### **Preventing Sex Trafficking and Strengthening Families Act**

Federal law (the Preventing Sex Trafficking and Strengthening Families Act, Public Law (P.L.) 113–183) requires agencies to identify and serve young people who are being trafficked or at risk of being exploited. Refer to ACYF-CB-IM-14-03 at [www.acf.hhs.gov/cb/resource/im1403](http://www.acf.hhs.gov/cb/resource/im1403) for additional information.



## Scope of the Title IV-E Program

The following excerpts were taken from the Tribal Title IV-E Program Considerations, Technical Assistance Document.

This document can be found at:

<https://www.acf.hhs.gov/cb/resource/tribal-considerations>.

The Title IV-E program has several different subcomponents, some of which are mandatory and others that are optional. A few of the subcomponents are:

**Service Area and Population Designation.** It is mandatory for the Indian Tribe to establish the service area(s) and population(s) to be served under the Title IV-E plan. The Indian Tribe must serve all eligible children within its identified service and population area(s), per section 479B(c)(1)(B) of the Social Security Act (the Act). There are no Federal requirements that limit the service area, (i.e., service areas are not limited to reservations or Indian lands) however Indian Tribes should take care to define a realistic service area and population and seek to resolve potential conflicts if its service areas and populations overlap with those of other Tribal governments.

**Foster Care Maintenance Payments Program.** The foster care maintenance payments program is a mandatory component of an approvable Title IV-E plan per sections 471(a) of the Act. The Indian Tribe is obligated to provide foster care maintenance payments on behalf of all children in

the Indian Tribe's service area who are eligible for the program up to the age of 18.

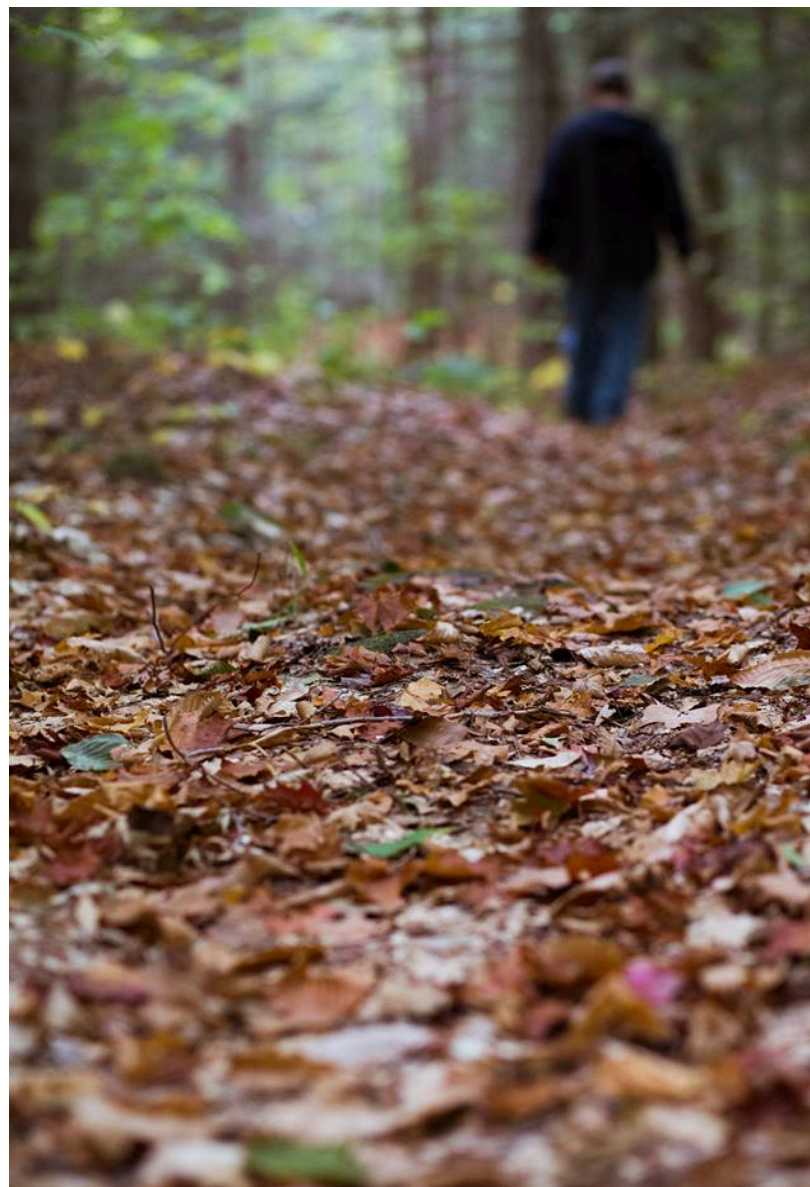
**Adoption Assistance Program.** The adoption assistance payments program is a mandatory component of an approvable Title IV-E plan, per section 471 of the Act. The Indian Tribe is obligated to provide adoption assistance on behalf of all children in the Indian Tribe's service area who are eligible for the program up to the age of 18.

**Optional Guardianship Assistance Program.** An Indian Tribal Title IV-E agency may choose to operate a guardianship assistance program as a component of the Title IV-E plan per section 471(a)(28) of the Act. This component of the Title IV-E program is optional. If the Indian Tribe chooses to implement this option, it must then provide kinship guardianship assistance payments on behalf of all children in the Indian Tribe's service area and population who are eligible for the program up to the age of 18.

**Optional Title IV-E Extension for Youth Until Age 19, 20 or 21.** Beginning October 1, 2010, a Tribal Title IV-E agency can opt to extend assistance to eligible Title IV-E recipients, in all three programs, under certain conditions, up to the age of 19, 20 or 21.

### Key Questions for Consideration:

- Is the Indian Tribe's potential service area/population of a scale that warrants operating the Title IV-E program directly?
- What resources are available or could be mobilized throughout the potential service area/population for children and families?
- What existing Federal or State financial resources currently available to a Tribe for child welfare purposes might be negatively or positively impacted by operating a Title IV-E program?
- Would joining a consortium of other Indian Tribes be beneficial?
- Is directly operating federally prescribed foster care, kinship guardianship and adoption programs consistent with Tribal objectives and values?
- How will any existing Title IV-E agreement with a State be affected by operating a direct Title IV-E program?
- Are there changes needed to the Indian Tribe's codes and regulations to ensure that Title IV-E is available throughout the service area for all eligible children?





## Resources to Assist Tribes

The resources listed below and on the following page are available to assist Tribes interested in pursuing Title IV-E Direct Funding or with the development of a Tribal-State Agreement.

### Child Welfare Information Gateway - [www.childwelfare.gov](http://www.childwelfare.gov)

Child Welfare Information Gateway provides access to print and electronic publications, websites, and online databases covering a wide range of child welfare topics, including child abuse prevention, family preservation, foster care, domestic and intercountry adoption, search and reunion, and much more.

### Child Welfare Capacity Building Collaborative - [www.capacity.childwelfare.gov](http://www.capacity.childwelfare.gov)

The Children's Bureau's Child Welfare Capacity Building Collaborative helps public child welfare agencies, Tribes, and courts enhance and mobilize the human and organizational assets necessary to meet Federal standards and requirements; improve child welfare practice and administration; and achieve safety, permanency, and well-being outcomes for children, youth, and families.

### Center for Tribes - [www.capacity.childwelfare.gov/tribes](http://www.capacity.childwelfare.gov/tribes)

The Center for Tribes collaborates with American Indian and Alaska Native nations to help strengthen Tribal child and family systems and services in order to nurture the safety, permanency, and well-being of children, youth, and families.

### Center for States - [www.capacity.childwelfare.gov/states](http://www.capacity.childwelfare.gov/states)

The Center for States helps public child welfare organizations and professionals build the capacity necessary to strengthen, implement, and sustain effective child welfare practice and achieve better outcomes for children, youth, and families.

### Center for Courts - [www.capacity.childwelfare.gov/courts](http://www.capacity.childwelfare.gov/courts)

The Center for Courts focuses on building the capacity of court improvement programs to improve child welfare practice in the courts and legal community.

## Other Providers

### Resource Centers

- **AdoptUSKids.** [www.adoptuskids.org](http://www.adoptuskids.org)
- **Abandoned Infants Assistance Resource Center.** [www.acf.hhs.gov/cb/capacity/resource-centers](http://www.acf.hhs.gov/cb/capacity/resource-centers)
- **National Center for Community-Based Child Abuse Prevention (CBCAP) FRIENDS.** [www.friendsnrc.org](http://www.friendsnrc.org)
- **National Center on Substance Abuse and Child Welfare (NCSACW).** [www.ncsacw.samhsa.gov/default.aspx](http://www.ncsacw.samhsa.gov/default.aspx)

### Information Clearinghouses and Dissemination Centers

- **Child Welfare Workforce Institute.** [www.ncwwi.org](http://www.ncwwi.org)
- **Technical Assistance Center for Children's Mental Health.** <https://gucchdtacenter.georgetown.edu>
- **Technical Assistance Network for Children's Behavioral Health.** [www.chcs.org/project/national-technical-assistance-network-for-childrens-behavioral-health](http://www.chcs.org/project/national-technical-assistance-network-for-childrens-behavioral-health)
- **Child Abuse and Neglect Technical Assistance and Strategic Dissemination Center (CANTASD).** <http://www.cantasd.org>

### Quality Improvement Centers

- **Quality Improvement Center on the Representation of Children in the Child Welfare System.** [www.improvechildrep.org](http://www.improvechildrep.org)





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